



Department of Energy
Acquisition Regulation

No. 96-07
Date July 24, 1996

ACQUISITION LETTER

AUTHORITY

This Acquisition Letter (AL) is issued by the Procurement Executive Pursuant to a delegation from the Secretary and under the authority of the Department of Energy Acquisition Regulation (DEAR) Subpart 901.301-70.

CONTENTS

CITATION

919
970.19

TITLE

Small Business Programs
Small Business and Small
Disadvantaged Business Concerns

I. **Purpose.** Acquisition Letter 94-12, dated August 12, 1994, is hereby canceled.

II. **Background.** AL 94-12, among other things, authorized a number of acquisition tools to expand opportunities for small businesses, small disadvantaged businesses, woman-owned small businesses, and 8(a) certified firms to participate in the award of subcontracts by Department of Energy (DOE) management and operating (M&O) contractors compatible with the purchasing system then described at DEAR 970.71.

As a result of an amendment to the DEAR (See 60 FR 28737 (June 2, 1995) and 60 FR 49512 (September 26, 1995)), M&O purchasing systems now are to be based upon "best commercial practice." Under such systems, M&O contractors must comply with the subcontracting plan clause in their contracts and maximize subcontracting opportunities for small businesses, small disadvantaged businesses, and women-owned small businesses compatible with the effective performance of their prime contracts.

III. **Guidance.**

- a. M&O contractors and all other contractors whose contracts contain the clause at FAR 52.219-9 are required by paragraphs (d)(9) and (d)(10) of that clause to flow subcontracting plan requirements to subcontracts valued in excess of \$500,000 (\$1 million for construction) and provide appropriate reports. First tier subcontractors and each qualifying lower tier subcontractor are required to do likewise.



DOE contracting officers and small business specialists should assure that the clause is appropriately flowed down and that the necessary reports are provided to the next higher tier subcontractor through the prime contractor for submission to the Department.

- b. DOE contracting officers shall forward, as soon as possible after receipt in the procurement office, copies of procurement request packages valued in excess of \$3 million to the DOE Office of Economic Impact and Diversity for review by that office. Procurements which have already been identified for set aside to small business or award under the 8(a) Program need not be forwarded.
- c. Head of contracting activities may authorize nonmanagement and operating contractors with contracts for environmental remediation of a specific DOE site or sites to institute a program that will result in the award of purchases with a value \$5 million or less for manufacturing standard industrial classifications and \$3 million or less for all other acquisitions, on a noncompetitive basis to firms certified as participants in the Small Business Administration's 8(a) Program. Such an M&O program may also provide for competitive set-asides for purchases valued in excess of those thresholds to such firms. If such a program is instituted, the contractor shall assure that awards are to be made at fair market prices and are identified as awards to 8(a) firms under the reporting provisions of the Small Business Subcontracting Plan Clause.
- d. Contracting Officers are authorized to permit M&O contractors to institute the following pilot programs in their purchasing systems and methods:
 - 1. The reservation of purchases of \$100,000 or less exclusively for small businesses.
 - 2. The setting aside of individual purchases for competition exclusively among small businesses where there is a reasonable expectation that bids, competitive as to price, quality, and delivery, will be obtained from two or more responsible small businesses.
 - 3. The award of subcontracts, with a value of \$5 million or less for manufacturing standard industrial classifications and \$3 million or less for all other acquisitions, on a noncompetitive basis to firms certified as participants in the Small Business Administration's 8(a) Program. Their

purchasing systems and methods may also provide for competitive set-asides for purchases valued in excess of those thresholds to such firms. If such a program is instituted, the M&O contractor shall assure that awards are made at fair market prices and are identified as awards to 8(a) firms under the reporting provisions of the Small Business Subcontracting Plan Clause.

- IV. **Effective Date.** This Acquisition Letter is effective on the date of issuance.
- V. **Expiration Date.** This Acquisition Letter is effective until canceled or superseded.